

Message Text

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TO USNHLO PARIS

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FOLLOWING REPEAT STATE 140135 ACTION USMISSION NATO DTD 16 JUN

QTE

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E.O. 11652: N/A

TAGS: ASEC, MILI, NATO

SUBJECT: SHIPMENT OF CLASSIFIED MATERIAL FROM CONUS

-- TO OVERSEAS

REF: A) USNATO 2950, B) USNATO 3054

1. REFERENCE QUOTE FROM PARA 2, USNATO 5236, SET FORTH IN
PARA 2 OF REF A, INQUIRY WAS MADE BY THE OFFICE OF INDUS-
TRIAL SECURITY, SAN FRANCISCO DEFENSE CONTRACT ADMINISTRA-
TION SERVICES REGION (DCASR) CONCERNING DISCUSSION BY
VARIAN ASSOCIATES WITH J. GRAHAM, CHIEF OF CONTRACT ADMINI-
STRATION AND L. VOGEL, TRANSPORTATION OFFICER, REVEALED
THAT BOTH MEN DENIED THAT THEY HAD PROVIDED VARIAN ASSOCI-
ATES WITH SHIPPING GUIDANCE CONTAINED IN SUBPARAGRAPHS A,
B, AND C OF PARA 2, USNATO 5236. GUIDANCE ON THIS IS
AVAILABLE AT THE OFFICE OF INDUSTRIAL SECURITY, SAN
FRANCISCO DCASR.

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2. REFERENCE DALO-ILS MSG 041618Z OCT 74 SET FORTH IN PARA 3 OF REFERENCE A, SHOULD HAVE MADE CLEAR THAT ONLY ESCORT REGARDED AS SUITABLE ESCORT WOULD BE A U.S. GOVERNMENT CIVIL SERVICE EMPLOYEE OR MILITARY PERSON WITH SUITABLE SECURITY CLEARANCE.

3. REFERENCE PARA 4 OF REFERENCE A, TELEPHONIC CONCURRENCE FROM OASD (I AND L), MR. WEISSMAN WAS NOT INTENDED AS A PRECEDENT OR A CHANGE TO BASIC DOD POLICY.

4. DOD 5220.22-M, INDUSTRIAL SECURITY MANUAL FOR SAFEGUARDING CLASSIFIED INFORMATION, APRIL 1974 WHICH IS INCORPORATED BY REFERENCE IN THE INDUSTRIAL SECURITY AGREEMENT CONSUMMATED BETWEEN THE DOD AND THE CONTRACTOR BEFORE IT IS GRANTED A FACILITY SECURITY CLEARANCE STATES IN PARA 17,E THE PROCEDURES TO BE FOLLOWED WHEN TRANSMITTING SECRET AND CONFIDENTIAL MATERIAL OUTSIDE OF THE U.S., PUERTO RICO, PANAMA CANAL ZONE, OR A U.S. POSSESSION OR TRUST TERRITORY. THE PERTINENT PROVISIONS ARE AS FOLLOWS: QUOTE WHEN THE CLASSIFIED MATERIAL HAD PREVIOUSLY BEEN AUTHORIZED FOR EXPORT UNDER A STATE DEPARTMENT LICENSE OR LETTER, THE CONTRACTOR SHALL NOTIFY THE CONTRACTING OFFICER OF THE CLASSIFIED MATERIAL TO BE TRANSMITTED OUTSIDE OF THE AREAS ENUMERATED ABOVE (SEE PRECEDING SENTENCE). A CONTRACTOR SHALL NOT TRANSMIT CLASSIFIED MATERIAL DIRECTLY TO A FOREIGN GOVERNMENT OR FIRM. THE ONLY EXCEPTION TO THIS WOULD BE WHEN A FOREIGN GOVERNMENT, WITH WHOM THE U.S. HAS ENTERED INTO A RECIPROCAL AGREEMENT PERTAINING TO THE FILING OF CLASSIFIED PATENT APPLICATIONS IN THE RESPECTIVE COUNTRIES, HAS AUTHORIZED ITS U.S. PATENT AGENT TO RETURN ITS FOREIGN CLASSIFIED INFORMATION DIRECTLY TO THAT FOREIGN GOVERNMENT. EXCEPT AS NOTED ABOVE, TRANSMISSION SHALL TAKE PLACE BETWEEN THE CONTRACTOR AND A DESIGNATED U.S. GOVERNMENT REPRESENTATIVE FOR FORWARDING TO THE FOREIGN ACTIVITY. THIS IS KNOWN AS TRANSMISSION BY GOVERNMENT-TO-GOVERNMENT CHANNELS. TRANSMITTAL ARRANGEMENTS SHALL BE MADE BY THE COGNIZANT SECURITY OFFICE WHERE THE FOREIGN FIRM OR GOVERNMENT HAS AWARDED A CONTRACT TO THE U.S. CONTRACTOR. WHEN AUTHORIZED, SECRET AND CONFIDENTIAL MATERIAL SHALL

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BE TRANSMITTED BY ONE OF THE FOLLOWING MEANS: (1) N/A
(2) ACCOMPANIED BY A U.S. GOVERNMENT CIVIL SERVICE EMPLOYEE OR MILITARY PERSON WHO IS CLEARED FOR ACCESS TO THE LEVEL OF THE CLASSIFIED INFORMATION INVOLVED AND WHO HAS BEEN DESIGNATED BY THE CONTRACTING OFFICER. (APPROPRIATELY CLEARED OFFICERS OF THE DEPARTMENT OF NAVY, MILITARY SEA TRANSPORTATION SERVICE CIVILIAN MARINE PERSONNEL, MAY ALSO BE DESIGNATED AS ESCORTS BY THE CON-

TRACTING OFFICER.) FOREIGN CARRIERS MAY NOT BE UTILIZED, UNLESS THE DESIGNATED ESCORT HAS CONTINUOUS PHYSICAL

CONTROL OF THE MATERIAL BEING TRANSPORTED. UNQUOTE

5. REFERENCE PARA 5 OF REFERENCE A, ENCLOSURE "D" - INDUSTRIAL SECURITY, NATO DOCUMENT C-M(55)15(FINAL), REVISED OCT 4, 1974, PROVIDES IN THE INTRODUCTORY PARAGRAPH 84 OF SECTION V, INTERNATIONAL TRANSPORTATION OF NATO CLASSIFIED MATERIAL, THAT THE SECURITY PROCEDURES SET FORTH IN SECTION V FOR THE INTERNATIONAL TRANSPORTATION OF NATO CLASSIFIED MATERIAL REPRESENT MINIMUM CRITERIA AND DO NOT APPLY WHERE MORE RESTRICTIVE SECURITY MEASURES HAVE BEEN ESTABLISHED BY MEMBER NATIONS. IN ANY CASE, THE REFERENCE IN PARAGRAPH 103 TO THE USE OF CIVILIAN PERSONNEL IS APPLICABLE TO U.S. GOVERNMENT CIVIL SERVICE EMPLOYEES. WE AGREE THAT THE AVAILABILITY OF MILITARY PERSONNEL ON A CONTINUING BASIS OVER A PERIOD OF YEARS TO ACT AS ESCORTS FOR RAYTHEON CLASSIFIED SHIPMENTS OVERSEAS APPEARS UNLIKELY. ALTERNATIVE ESCORT PROCEDURES ARE SET FORTH IN PARA 4, ABOVE.

6. REFERENCE PARA 8 OF REFERENCE A, U.S.CONFIDENTIAL MATERIAL CAN BE SHIPPED OVERSEAS IN THE CUSTODY OF COMMANDERS OR MASTERS OF SHIPS OF U.S. REGISTRY, WHO ARE UNITED STATES CITIZENS. CONFIDENTIAL MATERIAL SHIPPED ON SHIPS OF UNITED STATES REGISTRY MAY NOT PASS OUT OF U.S. GOVERNMENT CONTROL. THE COMMANDERS OR MASTERS MUST RECEIPT FOR THE CARGO AND AGREE TO: (1) DENY ACCESS TO THE CONFIDENTIAL MATERIAL BY UNAUTHORIZED PERSONS, INCLUDING CUSTOM INSPECTORS, WITH THE UNDERSTANDING THAT CONFIDENTIAL CARGO WHICH WOULD BE SUBJECT TO CUSTOMS INSPECTION WILL NOT BE UNLOADED, AND (2) MAINTAIN CONTROL UNCLASSIFIED

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OF THE CARGO UNTIL A RECEIPT IS OBTAINED FROM AN AUTHORIZED REPRESENTATIVE OF THE CONSIGNEE. ONCE TITLE AND CUSTODY PASSES TO A REPRESENTATIVE OF THE FOREIGN GOVERNMENT CONCERNED FOR FURTHER RELEASE TO THE FOREIGN SUBCONTRACTOR, THE U.S. HAS TO RELY ON THE COUNTRIES CONCERNED TO PROVIDE ADEQUATE SECURITY PROTECTION FOR CLASSIFIED EQUIPMENT ITEMS OF U.S. ORIGIN RELEASED TO THEM. IT DOES NOT FOLLOW THAT THE U.S. INDUSTRIAL SECURITY PROCEDURES NEED TO BE MODIFIED TO EQUATE WITH THOSE APPROVED BY NATO.

7. AFTER REVIEW OF THE ISSUES RAISED IN REFERENCE A, IT HAS BEEN CONCLUDED THAT US INDUSTRIAL SECURITY PROCEDURES AS SET FORTH IN THE INDUSTRIAL SECURITY MANUAL, ARE ADEQUATE FOR THE HANDLING OF DIRECT SALES BY CONTRACTORS

AS WELL AS FOR RESOLVING THE OTHER PROBLEMS DISCUSSED IN REFERENCED MESSAGE. RAYTHEON CREATED ITS OWN TRANSPORTATION PROBLEMS BY NEGOTIATING A CONTRACT WHICH CALLS FOR FOB-DESTINATION DELIVERY OF U.S. CLASSIFIED COMPONENTS AND MAJOR ITEMS GOING TO EUROPE FROM THE U.S., A TRANSPORTATION ARRANGEMENT NOT PROVIDED FOR IN THE DOD INDUS-

TRIAL SECURITY MANUAL. MOST OF RAYTHEON'S TRANSPORTATION PROBLEMS WOULD BE SOLVED IF IT COULD RENEGOTIATE THE CONTRACT TO PROVIDE FOR THE TRANSFER OF TITLE AND CUSTODY OF U.S. CLASSIFIED MATERIAL AT POINT OF DEBARKATION.

8. REFERENCE PARA 3 OF REFERENCE B, WE CONCUR IN THE EXCEPTION FROM NORMAL PROCEDURES IN THE OVERSTAMPING OF PAGES OF BOUND DOCUMENTS (MANUALS) CONTAINING CLASSIFIED INFORMATION AT CONFIDENTIAL LEVEL GIVEN BY MR. ABIDIAN, DIRECTOR, NATO OFFICE OF SECURITY TO GENERAL COERDT. THE INSTRUCTIONS CONTAINED IN LTR, DCAS-NS, DEC 27, 1974, SUBJECT: REQUEST FOR CLARIFICATION OF MARKING REQUIREMENTS FOR NATO-HAWK DOCUMENTS HAVE BEEN RESCINDED BY OSD.

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